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IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1973

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No. 73-604

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DONALD C. CASS, *Petitioner*

v.

UNITED STATES OF AMERICA, *Respondent*

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On Writ of Certiorari to the United States  
Court of Appeals for the Ninth Circuit

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**APPENDIX**

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Civil No. 2014

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

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DONALD C. CASS, *Plaintiff*

v.

THE UNITED STATES OF AMERICA, *Defendant*

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**Relevant Docket Entries**

6-14-71 Filed Complaint.

6-21-71 Filed Summons (served).

8-13-71 Filed Answer of Defendant.

9-16-71 Filed Preliminary Pre-Trial Order; Further proceedings are stayed pending action by the United States Supreme Court in the petition for a writ of certiorari in U. S. v. Schmidt, No. 71-631.

12-29-71 Filed Agreed Statement of Facts.

1-21-72 Filed Stipulation.

2-18-72 Filed Brief in Support of Judgment for Plaintiff; Certif. of mailing attached.

3-13-72 Filed Brief in support of judgment for defendant, with Cert. of mailing attached.

3-29-72 Filed Reply Brief in support of Judgment for plaintiff.

6- 3-72 Filed Order directing parties to submit memoranda on question of jurisdiction on or before June 15, 1972.

6-13-72 Filed Defendant's Memorandum on question of jurisdiction.

6-15-72 Filed Memorandum of Plaintiff on question of jurisdiction.

6-21-72 Filed Opinion and Order that plaintiff have judgment against the defendant in the sum of Ten Thousand Dollars (\$10,000.00).

6-21-72 Filed and entered judgment that plaintiff have judgment against the defendant in the sum of Ten Thousand Dollars.

8-18-72 Filed Notice of Appeal.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

(Title omitted in printing)

**Complaint**

(Filed June 14, 1971)

Plaintiff alleges:

1. This action is to recover the readjustment payment to which plaintiff is entitled by virtue of his involuntary release from military service, as hereinafter more fully appears. Plaintiff is a citizen of the United States; plaintiff's claim does not exceed \$10,000, and is founded on the Act of Congress of September 7, 1962, P.L. 87-651, Title I, Section 102(a), 76 Stat. 506, Amended Pub. L. 89-718, Section 6, Nov. 2, 1966, 80 Stat. 1115, USC, Title 10, Section 687.

2. On 16 July 1966, plaintiff was ordered to active duty in the U.S. Army as a First Lieutenant, as more fully appears from Exhibit "A" attached hereto and made a part hereof. Thereafter, until 26 April 1971, when he was in-

voluntarily released from active duty, plaintiff served his country continuously, faithfully and honorably as an officer on active duty in the U.S. Army including combat duty in Viet Nam and a tour on the DMZ in Korea as more fully appears on Exhibit "B" attached hereto and made a part hereof.

3. At the time of his involuntary release on 26 April 1971, plaintiff held the rank of Captain and due to his 14 years longevity received a basic monthly pay of \$1,063.80.

4. By virtue of the above-cited Act of Congress plaintiff is entitled to a readjustment payment computed by multiplying his years of active service by two months basic pay or a total readjustment payment of \$10,638.00. In order for this court to retain jurisdiction, plaintiff specifically and irrevocably waives all of the excess readjustment payment to which he is entitled above \$10,000.00.

5. Although plaintiff has made demands and claims for said readjustment payment through the regular military channels, the defendant refused and still refuses to pay said claim or any part thereof.

WHEREFORE, plaintiff demands judgment against the United States of America in the sum of \$10,000.00 and such other relief as to the court may deem just and appropriate and as the nature of the case may require.

CANNON, SMITH & GARRITY

By /s/ CHARLES A. SMITH

*Attorneys for Plaintiff*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

(Title Omitted in Printing)

**Answer**

(Filed August 13, 1971)

The defendant, United States of America, by its undersigned attorney, hereby answers the complaint in this action as follows:

1. The allegations of paragraph 1 are Conclusions of Law not requiring an answer, but to the extent deemed to be allegations of material fact, they are denied.

2. Admits that plaintiff was ordered to active duty as stated and that he was released from active duty with some 4 years, nine months and 13 days of honorable service thereafter; otherwise the allegations in paragraph 2 are denied for lack of knowledge or information sufficient to form a belief as to the truth thereof.

3. Admits that plaintiff was released from active duty holding the rank of captain with a base pay per month of \$1,063.80.

4. Denies the allegations of paragraph 4.

5. Denies the allegations of paragraph 5 for lack of knowledge or information sufficient to form a belief as to the truth thereof.

**SEPARATE DENIALS**

1. Denies each and every allegation of the complaint not hereinbefore expressly admitted, denied, or qualified.

2. The defendant further denies that there is anything due plaintiff because of the reasons set forth in this complaint.